

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KENNETH COOPER,

Petitioner,

No. 05-CV-71443-DT

vs.

Hon. Gerald E. Rosen

DOUGLAS VASBINDER,

Respondent.

ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION AND
DISMISSING PLAINTIFF'S HABEAS CORPUS ACTION

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on July 14, 2006

PRESENT: Honorable Gerald E. Rosen
United States District Judge

This matter having come before the Court on the Report and Recommendation of United States Magistrate Judge Paul J. Komives recommending that the Court deny Kenneth Cooper's petition for a writ of habeas corpus, and that this case, accordingly, be dismissed; and Petitioner and Respondent having timely filed Objections to the Report and Recommendation; and the Court having reviewed the Magistrate Judge's Report and Recommendation, and Objections thereto, and the Court's file of this action and having concluded that, for the reasons stated in the Report and Recommendation, the petition for habeas corpus relief should be denied; and the Court being otherwise fully advised in the premises,

IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation of March 27, 2006 be, hereby is, adopted by this Court.

IT IS FURTHER ORDERED that, for the reasons set forth in the Magistrate Judge's Report and Recommendation, Kenneth Cooper's petition for habeas corpus relief be, and hereby is DENIED and the above-captioned case, therefore, is DISMISSED.

IT IS FURTHER ORDERED that, for the reasons stated by the Magistrate Judge, pursuant to 28 U.S.C. § 2243(c), no certificate of appealability should issue for purposes of appeal of this matter. The Court will also deny Petitioner leave to appeal *in forma pauperis*. A habeas petitioner seeking to appeal the denial of a habeas petition will not be permitted to proceed *in forma pauperis*, where the appeal would be frivolous. *Hence v. Smith*, 49 F. Supp. 2d 547, 549 (E.D. Mich 1999).

s/Gerald E. Rosen
Gerald E. Rosen
United States District Judge

Dated: July 14, 2006

I hereby certify that a copy of the foregoing document was served upon counsel of record on July 14, 2006, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry
Case Manager